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REMARKS

The office action has been carefully considered together with the prior art of record and the present application. An amendment to claim 12 has been made to overcome the objection to it. It now further defines the apparatus of claim 1 rather than a media interface. Claim 10 was objected to as being dependent from a rejected base claim and it has been amended to place it in independent form by incorporating the subject matter of original claim 8. It is now believed to be in condition for allowance.

Applicant acknowledges with appreciation the allowance of claims 6, 7 and 11.

Claims 1-5, 8, 9, 12 and 13 are now rejected under 35 U.S.C. 103(a) as being unpatentable over either of two Muller patents of record in view of Chien. The examiner states that with regard to claims 1, 2 and 13, each of the Muller references discloses an apparatus and method for interfacing a media access controller (MAC) and a physical layer device (PHY) for operating at least one of a gigabit media independent interface and a 10-bit interface.

This statement is not understood for the simple reason that it does not conform to the language of independent claim 1 because it uses claim language that has been changed by a previous amendment. No longer does claim 1 include the recitation "for operating at least one of a gigabit media independent interface and a 10-bit interface." Claim 1 now claims an "[A]pparatus . . . for operating as either a gigabit media independent interface or a 10-bit interface. . ."

In applicant's prior amendments, it was pointed out that the Muller patents have the same specification and that they did not operate in the 10-bit interface realm. The examiner's statement in this March 19 office action admits that both of the Muller references differ from the claims in that they *do not disclose the feature of having the interface operating as either a gigabit media independent interface or a 10-bit interface.*

Applicant believes this is an admission that Muller fails to teach or suggest the apparatus as defined in claim 1 as well as the other rejected claims. The examiner contends that it is well known in the art and commonly adopted by one

skilled artisan for compatibility of many industry standards and relies upon Chien, for example, as supporting this proposition.

It is submitted that the feature of having the interface operate as a gigabit media independent interface as well as a 10-bit interface was not well known in the art at all. It is submitted that Mr. Dove, the applicant here, invented such an apparatus and method and the examiner has no prior art that teaches or suggests the subject matter claimed in this application.

Chien as well as newly cited Fan et al., Lay and Sokol et al. all claim priority to the same provisional application No. 60/237,764 filed on October 3, 2000. None of these patent applications are prior art to the present application for the reason that the previously filed Dove § 131 Declaration which removed the Lo 6,920,132 patent having a filing date of May 30, 2000 predates the filing date of October 3, 2000. The Dove § 131 Declaration therefore removes all four of these newly cited references as prior art to the present application. That being the case, the 103 rejections of the claims are traversed and these claims should be immediately allowed.

Claims 8 and 12 are also not believed to be taught or suggested by Muller for the reason that claim 8 is directed to a media interface that has CRS and COL control signals applied on a single pin and claim 12, as now amended, recites an apparatus wherein CRS and COL control signals are applied on a single pin. The examiner states that Muller discloses the feature of CRS and COL control pins being applied on the single pin citing column 5, lines 24-34 in the '087 Muller patent. However, column 5 of the '087 patent, lines 43-48, specifically states the opposite, i.e., "it is therefore desirable to transmit the CRS, COL, MBC and MDIO *on separate signal lines* as the CRS and COL should always be accessible by the MAC or STA component and the MDC and MDIO should be independent of other signals in order to properly control the components and receive status information. Muller actually teaches away from this claim feature. It is therefore believed that the examiner is mistaken with regard to Muller teaching or suggesting either of these claims.

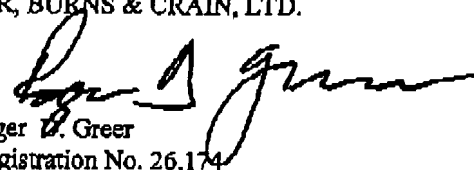
For the foregoing reasons, reconsideration and allowance of all pending claims is respectfully requested. If this amendment raises any further issues that

warrant discussion, it is requested that the examiner call the undersigned at the examiner's early convenience.

Respectfully submitted,

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